

**393A.590 Evidence of unpaid debt or undischarged obligation.**

- (1) A record of a putative holder showing an unpaid debt or undischarged obligation shall be prima facie evidence of the debt or obligation.
- (2) A putative holder may establish by a preponderance of the evidence that there is no unpaid debt or undischarged obligation for a debt or obligation described in subsection (1) of this section or that the debt or obligation was not, or no longer is, a fixed and certain obligation of the putative holder.
- (3) A putative holder may overcome prima facie evidence under subsection (1) of this section by establishing by a preponderance of the evidence that a check, draft, or similar instrument was:
  - (a) Issued as an unaccepted offer in settlement of an unliquidated amount;
  - (b) Issued but later was replaced with another instrument because the earlier instrument was lost or contained an error that was corrected;
  - (c) Issued to a party affiliated with the issuer;
  - (d) Paid, satisfied, or discharged;
  - (e) Issued in error;
  - (f) Issued without consideration;
  - (g) Issued but there was a failure of consideration;
  - (h) Voided not later than ninety (90) days after issuance for a valid business reason set forth in a contemporaneous record; or
  - (i) Issued but not delivered to the third-party payee for a sufficient reason recorded within a reasonable time after issuance.
- (4) In asserting a defense under this section, a putative holder may present evidence of a course of dealing between the putative holder and the apparent owner or of custom and practice.

**Effective:** July 14, 2018

**History:** Created 2018 Ky. Acts ch. 163, sec. 59, effective July 14, 2018.